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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID MICHAEL LEON,  
Petitioner,  
v.  
JAMES A. YATES, Warden,  
Respondent.

C07-5719 CRB

**DECLARATION OF COUNSEL IN  
SUPPORT OF APPLICATION FOR  
SECOND EXTENSION OF TIME  
TO FILE RESPONSE**

I, JEFFREY M. LAURENCE, declare under penalty of perjury as follows:

20       1. I am a Deputy Attorney General for the State of California and am assigned to  
21 represent respondent in this habeas corpus action. Respondent's answer or other responsive  
22 pleading is due January 18, 2008, pursuant to this Court's November 19, 2007, order to show cause.  
23 I am unable to meet this deadline, and request an extension of time to file a response to the petition  
24 for the following reasons.

25        2. Petitioner is a state prisoner who was convicted of first degree murder with a gun use  
26 enhancement, and he is serving an indeterminate sentence of 27 years to life. He contends: 1) his  
27 right to due process was violated by the state court's finding that petitioner had failed to demonstrate  
28 prejudice from a 17 year pre-accusation delay, 2) his Sixth Amendment right was violated by the

1 the state court's affirmation of the exclusion of third party culpability evidence, 3) the trial court  
2 violated his constitutional rights by dismissing a juror during deliberations for lying under oath, and  
3 4) he received ineffective assistance of appellate counsel.

4       3. This case was already closed when the Order to Show Cause issued, and I had to  
5 order the file from our archives in Sacramento before I could begin working on our answer. The  
6 record in this case consists of approximately 671 pages of reporter's transcript and 412 pages of  
7 clerk's transcript and will take additional time to review and examine this record, give the fact-  
8 intensive nature of petitioner's claims.

9       4. The United States Supreme Court requested a response to a petition for writ of  
10 certiorari in *Roundtree v. California* (07-7463). On February 22, 2008, I was assigned to prepare  
11 the opposition on an expedited basis, which necessitated setting aside my pending caseload. I had  
12 to devote several days to examining the record and legal issues in that case in order to prepare our  
13 response. The time involved in researching the issues and drafting our response caused  
14 unanticipated delays in my caseload management. I expect to file our response today, March 5th,  
15 after which I will be able to return to my previously assigned cases.

16       5. In addition to the opposition to the petition for writ of certiorari, during the time I  
17 have been assigned this habeas matter, I have filed a merit's brief in the California Supreme Court  
18 in *People v. Villa* (S151561), and a petition for review in the California Supreme Court in *People*  
19 *v. Story* (S161044). I also filed answers to federal habeas corpus petitions in *Heang v. Woodford*  
20 (C07-0980 MJJ) and *Young v. Runnels* (C05-119 JSW), and respondent's briefs in state appellate  
21 courts in *People v. Johnson* (A118685), *People v. Easterling* (A115281), *People v. Ekwueme*  
22 (H030655), *People v. Garelick* (H030976), *People v. Powell* (A114764), and *People v. Chavira*  
23 (A116473). Furthermore, over the course of the next 60 days, I must prepare and file respondent's  
24 briefs in state court in *People v. Hughes* (A115308), *People v. Barron* (H031590), *People v. Estrada*  
25 (H031846), *People v. Robey* (H032101), and prepare and file an answer in federal court in *Gilbert*  
26 *v. Felker* (C07-5987 TEH).

27       6. I have contacted counsel for petitioner, Julie Schumer, and she has no objection to  
28 this extension request.

Accordingly, I request that the Court grant respondent an extension of 62 days, to and including May 19, 2008, in which to file a response to the petition.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed this 11th day of March, 2008 in San Francisco, California.

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6 /S/ Jeffrey M. Laurence  
7 JEFFREY M. LAURENCE  
Deputy Attorney General  
Attorney for Respondent

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